

BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION

FILED

IN RE DELTA DENTAL ANTITRUST
LITIGATION

MDL DOCKET NO. _____

DEC 26 2019
Dec 26 2019
THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

**PLAINTIFFS' MOTION FOR TRANSFER OF RELATED ACTIONS TO THE
NORTHERN DISTRICT OF ILLINOIS FOR COORDINATED OR CONSOLIDATED
PRETRIAL PROCEEDINGS PURSUANT TO 28 U.S.C. § 1407**

Plaintiffs Robert S. Dolgow D.D.S., P.A.; B. Kyle Benton, D.D.S. P.A.; Kaufman & Kaufman Smile Design Studio LLC; Legacy Dental Associates P.C.; Dr. Rick Lindley, DDS, FICD; Dr. Steven P. Dultz DMD; Simon and Simon, PC.; Tooth Town Pediatric Dentistry, PLLC; Mary M. Fisher, DDS, P.C.; Bemus Point Dental, LLC; Rittenhouse Smiles, P.C., Timothy C. Verharen, D.D.S.; and Drs. DelMonico and Trocchio, Ltd. in the consolidated action captioned *In re Delta Dental Antitrust Litigation*, No. 1:19-cv-06734 (N.D. Ill. Nov. 26, 2019), respectfully move this Panel pursuant to 28 U.S.C. § 1407 to transfer and coordinate or consolidate related actions in the Northern District of Illinois before the Honorable Elaine E. Bucklo.

AVERMENTS IN SUPPORT OF PLAINTIFFS' MOTION

In support of the transfer and coordination or consolidation of these actions, Plaintiffs aver the following, as more fully set forth in the accompanying Memorandum of Law in support of this Motion:

1. Following almost a year of investigation, analysis and expert input, Plaintiff Robert S. Dolgow filed an action captioned *Dolgow v. Delta Dental Insurance Co., et al.*, No. 1:19-cv-6734, in the Northern District of Illinois on October 11, 2019. That action, and ten other

actions subsequently filed in that Court (“the Northern District of Illinois Actions”), allege nearly identical facts and legal causes of action. The first filed case was assigned to the Honorable Elaine E. Bucklo.

2. Plaintiffs in the *Dolgow* action, with the consent of all other parties in the then-pending cases, moved for reassignment of all subsequently-filed cases to Judge Bucklo. The Court held a conference with the parties on November 8, 2019. Later that day, the Court entered a minute order granting the motion to reassign all of the subsequently-filed cases to Judge Bucklo. The minute order also directed that Plaintiffs’ counsel should file a Consolidated Complaint within two weeks of the reassignment, and that Defendants should answer or otherwise respond within 60 days thereafter. The minute order also set a next court conference for January 31, 2020.

3. On November 25, 2019, Judge Bucklo entered an Initial Case Management Order (“CMO”) consolidating the Northern District of Illinois Actions for all further proceedings under the master docket number 1:19-cv-06734 and the caption *In re Delta Dental Antitrust Litigation* (the “Consolidated Action”). Among other things, the CMO also appointed Plaintiffs’ Interim Co-Lead Class Counsel and a plaintiffs Executive Committee and confirmed the case schedule for filing a consolidated complaint and briefing motions to dismiss.

4. On November 26, 2019, Plaintiffs duly filed their Consolidated Complaint in accordance with Judge Bucklo’s Order.

5. Also on November 26, 2019, almost six weeks after the *Dolgow* complaint had been filed, a twelfth related case was filed in the Northern District of Illinois captioned *American Dental Association et. al. v. Delta Dental Insurance Company et. al.*, Case No. 1:19-cv-07808-JJT and assigned to Judge John J. Tharp. Under Judge Bucklo’s reassignment order, that case should be transferred to Judge Bucklo imminently. On December 9, 2019, another action, *Dr.*

Stephen N. Obeng, DMD v. Delta Dental Plans Association et al., Case No. 1:19-cv-25072-UU, was filed in the Southern District of Florida and assigned to the Honorable Ursula Ungaro and on December 11, 2019 another action, *Dr. William Dickey, DMD v. Delta Dental Plans Association*; Case No. 19-cv-00910-DPJ-FKB, was filed in the Southern District of Mississippi assigned to Judge Daniel P. Jordan. The *Dr. Stephen N. Obeng, DMD* action and the *Dr. William Dickey, DMD* action, together with any other actions that may be filed in venues other than the Northern District of Illinois, are referred to herein as the “Related Actions.”

6. As required by 28 U.S.C. § 1407(a), the Related Actions proposed for transfer and coordination or consolidation “involve[] one or more common questions of fact.”

7. The proposed transfer and centralization of the Related Actions “will be for the convenience of the parties and witnesses and will promote the just and efficient conduct” of the actions. *See* 28 U.S.C. § 1407(a).

8. Movants base this Motion on the accompanying Memorandum in Support of their Motion to Transfer and Coordinate or Consolidate, the exhibits thereto, and such other matters as may be presented to the Panel at the time of hearing.

Dated: December 13, 2019

Respectfully submitted,

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